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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/041,875	01/07/2002	Peter S. Mautino	MCT 01501	4951
5073	7590	01/19/2007		
BAKER BOTTS L.L.P. 2001 ROSS AVENUE SUITE 600 DALLAS, TX 75201-2980			EXAMINER LE, MARK T	
			ART UNIT	PAPER NUMBER
			3617	

SHORTENED STATUTORY PERIOD OF RESPONSE	NOTIFICATION DATE	DELIVERY MODE
3 MONTHS	01/19/2007	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 01/19/2007.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

glenda.orrantia@hotmail.com  
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chad.watson@bakerbotts.com

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/041,875	MAUTINO ET AL.	
	Examiner	Art Unit	
	Mark T. Le	3617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12/12/06.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6 and 10-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 10-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input checked="" type="checkbox"/> Other: <u>Exhibit - A</u> .          |

### DETAILED ACTION

1. This communication is responsive to Applicant's response, filed on December 12, 2006. Applicant's arguments have been carefully considered.
2. Claims 1, 10 and 12-17 are rejected under 35 U.S.C. 102(b) as being anticipated by British reference No. 19,963.

The British reference, Figures 3 and 4, shows a coupler provided with a coupler knuckle having all the features as recited in the instant claims, including tail section 15, hub section 3, pin hole for pin 4, pulling face section 9, a nose section located forwardly of section 9 and having cylindrical opening 30 therein, and transition section 7 extending toward each other as can be seen at 10. Note that the bearing surface area defined by at least a portion of pulling face section 9 and the nose section located forwardly of section 9 of the British reference is substantially flat in a vertical direction and substantially arcuate in a horizontal direction, as broadly defined in the instant claimed.

Regarding the instant claimed step of retrofitting, as recited in the preamble of claim 15, it does not carry patentable weight because such step does not provide a clear structural distinction over the prior art structure.

3. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over British reference No. 19,963.

The British reference is applied above.

Regarding the instant claimed hardness being at least about 40 Rockwell C, it would have been obvious to one skilled in the art, i.e. a designer in the field, to optimize the capacity of the coupler knuckle of the British reference by constructing the bearing

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surface area thereof with an increased hardness so as to make it suitable for withstanding applications associated with higher load limits.

4. Claims 2-6 and 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over British reference No. 19,963 in view of Openchowski (US 6,129,227).

The British reference is applied above.

As to the height of the knuckle, it is noted for example in column 4, lines 9-11 of Openchowski; wherein, it is indicated that a standard knuckle height is eleven inches. Accordingly, it would have been obvious to one skilled in the art to size the knuckle height of the British reference to generally eleven inches so as to allow the knuckle to be used in conventional applications that requires standard size coupling devices.

Regarding the instant claimed dimensions, as recited in instant claims 2-4, note for example in Figure 4 of the British reference; wherein, the front face section comprises an upper section, a middle cutout section, and a lower section, which would have a combined height of 11 inches, as modified above. Since the combined height is 11 inches, at least one of the three individual sections, such as said upper section or said lower section, would have a height generally within the instant claimed dimensional ranges, as claimed. Note that said height of the individual sections is readable as the predetermined distance of the flat in the vertical direction, as broadly recited in the instant claims.

Regarding the instant claimed structure being made of cast steel, as recited in instant claims 5-6, note for example lines 20-22, column 7 of Openchowski; wherein, it indicates that standard knuckles are made of cast grade "E" steel alloy material;

therefore, it would have been obvious to one skilled in the art to cast the knuckle of the British reference with the same steel alloy material so as to achieve the expected strength thereof.

5. Regarding Applicant's argument that the enhanced bearing surface area of the structure of the British reference is not substantially arcuate in a horizontal direction, as recited in the instant claims, the examiner disagrees because the wordings of the instant claims are not specific enough to clearly define the instant claimed invention over the prior art structure. Applicant should consider the attached Exhibit-A that shows a perspective of the coupler knuckle of the British reference with examiner's annotations provided thereon; wherein, area around 'b' is also readable as an enhanced bearing surface area because it is inherently capable of being in contact with another coupler knuckle during opening/closing operations of the associated knuckles; and said area around 'b' is flat vertically and arcuate horizontally, as broadly recited in the instant claims.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

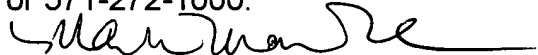
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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark T. Le whose telephone number is 571-272-6682. The examiner can normally be reached on Mon-Fri, between 9AM-3PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel Morano can be reached on 571-272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Mark T. Le  
Primary Examiner  
Art Unit 3617

mle  
1/11/07

A.D. 1913. SEP. 4. N<sup>o</sup>. 19,963.  
JOHNSTON'S COMPLETE SPECIFICATION.

[This Drawing is a reproduction of the Original on a reduced scale.]

